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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/766,350   | 01/28/2004  | Bernie W. Neuhaus    | 03-CLP-156 (M)      | 3302             |
| 200  | 7590        | 07/27/2005           | EXAMINER            |                  |
| EATON CORPORATION<br>EATON CENTER<br>1111 SUPERIOR AVENUE<br>CLEVELAND, OH 44114 |             |                      | TRIEU, THERESA      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3748                |                  |

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,350

Applicant(s)

NEUHAUS, BERNIE W.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Aug. 23, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date Jan. 28, 2004
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date July 14, 2005
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The formal drawing filed on August 23, 2004 has been approved.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the term “*may*” render the claim indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. *Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson (Patent Number 3,552,893).*

Regarding claim 1, as shown in Fig. 1, Richardson discloses a dual shaft gerotor motor (10) of the type comprising a gerotor gear set (26) including an internally-toothed ring member (60) and an externally-toothed star member (62) eccentrically disposed within the ring member

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for orbital and rotational movement therein, the teeth of the members interengaging to define a plurality N of expanding and contracting fluid volume chambers in response to the orbital and rotational movement, first and second motor housing assemblies attached to first and second axially opposite ends (76, 78) of the gerotor gear set; first and second output shafts (18, 20) rotatably supported by the first and second motor housing assemblies, respectively, and first and second means for transmitting torque from the star member to the first and second output shafts, respectively, first and second valve means, operably associated with, and driven by, one of the first and second output shafts and the first and second torque transmitting means, respectively, and cooperating with the first and second motor housing assemblies, respectively, to communicate fluid to the expanding fluid volume chambers, and from the contracting fluid volume chambers, characterized by:

(a) the first and second motor housing assemblies (10) being substantially identical, and defining first and second fluid ports (34, 38, 42; 44, 40, 36), respectively,

(b) each of the motor housing assemblies defining a plurality N of fluid passages, each of which is in fluid communication with one of the fluid volume chambers,

(c) the first fluid port (34, 38, 42) comprising an inlet port (34) and the first motor housing assembly and the first valve means (46) cooperating to provide first commutating fluid communication from the inlet port to the expanding fluid volume chambers, and

(d) the second fluid port (44, 40, 36) comprising an outlet port (36) and the second motor housing assembly (10) and the second valve means (48) cooperating to

provide second commutating fluid communication from the contracting fluid volume chambers to the outlet port.

Regarding claims 2-5, as shown in Fig. 1, Richardson discloses the first and second motor housing assemblies (10) including first and second mounting members (14, 16), respectively, by which the gerotor motor may be mounted relative to its associated structure; the first and second mounting members (14, 16) being substantially identical, and defining the first and second fluid ports (34, 38, 42; 44, 40, 36), respectively; the first and second output shafts (34, 36) being substantially identical, and the first and second torque transmitting means being substantially identical; the first and second valve means (46, 48) being substantially identical.

Regarding claims 6-9, as shown in Fig. 1, Richardson discloses the first and second motor housings assembly and the first valve and second means (46, 48) cooperating to define a first and second annular fluid chambers in fluid communication with the first and second fluid port (34, 38, 42; 44, 40, 36) and the first and second valve means (46, 48) defining first and second timing passages cooperating with the plurality N of the fluid passages to provide the first and second commutating fluid communication; the first valve means (46) and the first torque transmitting means being substantially identical to, and interchangeable with, an assembly of the second motor housing (10) assembly, the second valve means (48), and the second torque transmitting means; the motor defining a main flow path from the fluid port (34, 38, 42) through the fluid volume chambers to the second fluid port (44, 40, 36), the motor further defining a lubrication fluid path, in parallel with the main flow path (34, 38, 42; 44, 40, 36), the lubrication fluid path flowing along the first torque transmitting means, then through a central opening

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defined by the star member of the gerotor gear set (26), then along the second torque transmitting means.

***Prior Art***

The IDS (PTO-1449) filed on January 28, 2004 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of four patents: Easton (U.S. Patent Number 3,829,258), Minegishi (U.S. Patent Number 4,561,833), Bernstrom (U.S. Patent Number 4,756,676) and Novacek (U.S. Patent Number 4,936,094), each further discloses a state of the art.

***Communication***

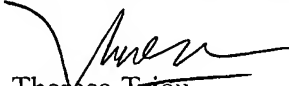
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT  
July 14, 2005

  
Theresa Trieu  
Primary Examiner  
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